

SENATE BILL No. 342

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-6-6.

Synopsis: Bodily substance samples. Allows: (1) a certified or noncertified phlebotomist; or (2) any other person, other than a law enforcement officer, who is competent to draw blood because of the person's training or experience; to obtain a bodily substance sample from an individual who is transported by a law enforcement officer to the place where the phlebotomist or other person who is competent to draw blood is located for purposes of the law concerning implied consent.

Effective: July 1, 2010.

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January 11, 2010, read first time and referred to Committee on Judiciary.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 342

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-30-6-6, AS AMENDED BY P.L.94-2006,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 6. (a) A physician or a person trained in obtaining
4 bodily substance samples and acting under the direction of or under a
5 protocol prepared by a physician, who:
6 (1) obtains a blood, urine, or other bodily substance sample from
7 a person, regardless of whether the sample is taken for diagnostic
8 purposes or at the request of a law enforcement officer under this
9 section; or
10 (2) performs a chemical test on blood, urine, or other bodily
11 substance obtained from a person;
12 shall deliver the sample or disclose the results of the test to a law
13 enforcement officer who requests the sample or results as a part of a
14 criminal investigation. Samples and test results shall be provided to a
15 law enforcement officer even if the person has not consented to or
16 otherwise authorized their release.
17 (b) A physician, a hospital, or an agent of a physician or hospital is



not civilly or criminally liable for any of the following:

- (1) Disclosing test results in accordance with this section.
- (2) Delivering a blood, urine, or other bodily substance sample in accordance with this section.
- (3) Obtaining a blood, urine, or other bodily substance sample in accordance with this section.
- (4) Disclosing to the prosecuting attorney or the deputy prosecuting attorney for use at or testifying at the criminal trial of the person as to facts observed or opinions formed.
- (5) Failing to treat a person from whom a blood, urine, or other bodily substance sample is obtained at the request of a law enforcement officer if the person declines treatment.
- (6) Injury to a person arising from the performance of duties in good faith under this section.

(c) For the purposes of this chapter, IC 9-30-5, or IC 9-30-9:

(1) the privileges arising from a patient-physician relationship do not apply to the samples, test results, or testimony described in this section; and

(2) samples, test results, and testimony may be admitted in a proceeding in accordance with the applicable rules of evidence.

(d) The exceptions to the patient-physician relationship specified in subsection (c) do not affect those relationships in a proceeding not covered by this chapter, IC 9-30-5, or IC 9-30-9.

(e) The test results and samples obtained by a law enforcement officer under subsection (a) may be disclosed only to a prosecuting attorney or a deputy prosecuting attorney for use as evidence in a criminal proceeding under this chapter, IC 9-30-5, or IC 9-30-9.

(f) This section does not require a physician or a person under the direction of a physician to perform a chemical test.

(g) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician shall obtain a blood, urine, or other bodily substance sample if the following exist:

(1) A law enforcement officer requests that the sample be obtained.

(2) The law enforcement officer has certified in writing the following:

(A) That the officer has probable cause to believe the person from whom the sample is to be obtained has violated IC 9-30-5.

(B) That the person from whom the sample is to be obtained has been involved in a motor vehicle accident that resulted in

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- 1 the serious bodily injury or death of another.
- 2 (C) That the accident that caused the serious bodily injury or
- 3 death of another occurred not more than three (3) hours before
- 4 the time the sample is requested.
- 5 (3) Not more than the use of reasonable force is necessary to
- 6 obtain the sample.
- 7 (h) If the person:
- 8 (1) from whom the bodily substance sample is to be obtained
- 9 under this section does not consent; and
- 10 (2) resists the taking of a sample;
- 11 the law enforcement officer may use reasonable force to assist an
- 12 individual, who must be authorized under this section to obtain a
- 13 sample, in the taking of the sample.
- 14 (i) The person authorized under this section to obtain a bodily
- 15 substance sample shall take the sample in a medically accepted
- 16 manner.
- 17 (j) A law enforcement officer may transport the person to a place
- 18 where the sample may be obtained by any of the following persons who
- 19 are trained in obtaining bodily substance samples and who have been
- 20 engaged to obtain samples under this section:
- 21 (1) A physician holding an unlimited license to practice medicine
- 22 or osteopathy.
- 23 (2) A registered nurse.
- 24 (3) A licensed practical nurse.
- 25 (4) An emergency medical technician-basic advanced (as defined
- 26 in IC 16-18-2-112.5).
- 27 (5) An emergency medical technician-intermediate (as defined in
- 28 IC 16-18-2-112.7).
- 29 (6) A paramedic (as defined in IC 16-18-2-266).
- 30 (7) A ~~certified~~ phlebotomist.
- 31 **(8) Any other person, other than a law enforcement officer,**
- 32 **who is competent to draw blood because of the person's**
- 33 **training or experience.**

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